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S. 782

SPONSORS

ERVIN, Sam J., Jr. (D., N. C.)

Bayh, Birch (D., Ind.)
Bible, Alan (D., Nev.)
Brooke, Edward W. (R., Mass.)
Burdick, Quentin N. (D., N. Dak.)
Byrd, Harry F., Jr. (D., Va.)
Church, Frank (D., Idaho)
*Cook, Marlow W. (R., Ky.)
Cooper, John Sherman (R., Ky.)
Dirksen, Everett McKinley (R., Ill.)
Dodd, Thomas J. (D., Conn.)
*Dole, Robert (R., Kans.)
Dominick, Peter H. (R., Colo.)
*Eagleton, Thomas F. (D., Mo.)
Fannin, Paul J. (R., Ariz.)
Fong, Hiram L. (R., Hawaii)
*Goldwater, Barry (R., Ariz.)
*Gravel, Mike (D., Alaska)
*Gurney, Edward J. (R., Fla.)
Hansen, Clifford P (R., Wyo.)
Hatfield, Mark (R., Oreg.)
Hruska, Roman L. (R., Nebr.)
Inouye, Daniel K. (D., Hawaii)
Jordan, B. Everett (D., N. C.)
Jordan, Len B. (R., Idaho)
Magnuson, Warren G. (D., Wash.)
*Mathias, Charles McC. (R., Md.)
McCarthy, Eugene J. (D., Minn.)
** McGee, Gale W. (D., Wyo.)
McGovern, George (D., S. Dak.)
McIntyre, Thomas J. (D., N.H.)
Metcalf, Lee (D., Mont.)
Miller, Jack (R., Iowa)
Montoya, Joseph M. (D., N. Mex.)
Mundt, Karl E. (R., S. Dak.)
Muskie, Edmund S. (D., Maine)
Nelson, Gaylord (D,, Wis.)
Pearson, James B. (R., Kans.)
Percy, Charles H. (R., Ill.)
Prouty, Winston L. (R., Vt.)
** Proxmire, William (D., Wis.)
Randolph, Jennings (D., Va.)
* Saxbe, William B. (R., Ohio)
* Schweiker, Richard S. (R., Pa.)
Scott, Hugh (R., Pa.)
Sparkman, John (D., Ala.)
Spong, William B. (D., Va.)
* Stevens, Theodore F. (R., Alaska)
Talmadge, Herman E. (D., Ga.)
Thurmond, Strom (R., S. C.)
Tower, John G. (R., Tex.)
Tydings, Joseph D. (D., Md.)
Williams, Harrison A. (D., N.J.)
Yarborough, Ralph (D., Tex.)

* New to 91st Senate
** Did not sponsor S. 1035

S. 1035

SPONSORS

ERVIN, Sam J., Jr. (D., N.C.)

* Bartlett, E.L. (D., Alaska)
Bayh, Birch (D., Ind.)
Bible, Alan (D., Nev.)
* Brewster, Daniel B. (D., Md.)
Brooke, Edward W. (R., Mass.)
Burdick, Quentin N. (D., N.D.)
Byrd, Harry F., Jr. (D., Va.)
* Carlson, Frank (R., Kans.)
Church, Frank (D., Idaho)
* Clark, Joseph S. (D., Pa.)
Cooper, John Sherman (R., Ky.)
Dirksen, Everett McKinley (R., Ill.)
Dodd, Thomas J. (D., Conn.)
Dominick, Peter H. (R., Colo.)
** Eastland, James O. (D., Miss.)
Fannin, Paul J. (R., Ariz.)
Fong, Hiram L. (R., Hawaii)
* Gruening, Ernest (D., Alaska)
Hansen, Clifford P. (R., Wyo.)
Hatfield, Mark (R., Oreg.)
* Hill, Lister (D., Ala.)
** Hollings, Ernest F. (D., S.C.)
Hruska, Roman L. (R., Neb.)
Inouye, Daniel K. (D., Hawaii)
Jordan, B. Everett (D., N.C.)
Jordan, Len B. (R., Idaho)
* Lausche, Frank J. (D., Ohio)
* Long, Edward V. (D., Mo.)
Magnuson, Warren G. (D., Wash.)
McCarthy, Eugene J. (D., Minn.)
McGovern, George (D., S.D.)
McIntyre, Thomas J. (D., N.H.)
Metcalf, Lee (D., Mont.)
Miller, Jack (R., Iowa)
Montoya, Joseph M. (N.Mex.)
** Moss, Frank E. (D., Utah)
Mundt, Karl E. (R., S.D.)
Muskie, Edmund S. (D., Maine)
Nelson, Gaylord (D., Wis.)
Pearson, James B. (R., Kans.)
Percy, Charles H. (R., Ill.)
Prouty, Winston L. (R., Vt.)
Randolph, Jennings (D., W.Va.)
Scott, Hugh (R., Pa.)
* Smathers, George A. (D., Fla.)
Sparkman, John (D., Ala.)
Spong, William B., Jr. (D., Va.)
Talmadge, Herman E. (D., Ga.)
Thurmond, Strom (R., S.C.)
Tower, John G. (R., Texas)
Tydings, Joseph D. (D., Md.)
Williams, Harrison A., Jr. (D., N.J.)
Yarborough, Ralph (D., Texas)
** Young, Milton R. (R., N.D.)

* Not in 91st Congress
** Did not sponsor new bill - S. 782

therefore would have to be maintained—with incentives for reservists instead of the threat of the draft. Even the draft itself probably should be kept on stand-by, perhaps for use with the permission of Congress or in case of declared wars.

Another reason that military men would hate to see the draft go is that they think it provides them with manpower of greater quality as well as quantity. As Colonel Hays noted, volunteers, unpressured by the draft, tended to be "marginal" when the Army last tried them. But he was speaking of men who had grown up in the pinched and deprived Depression years. With the right inducements, a modern technological army should be able to attract technology-minded volunteers, educated and educable enough to cope with missile guidance, intelligence analysis, computer programming, medical care and other demanding jobs. Given five or ten years in service, volunteers should be trainable to considerable skills, to judge from the experience of Canada and Britain, the only major nations that have volunteer forces. Though these armies are small, not having the great global responsibilities of the American forces, they provide enviable examples of high effectiveness, low turnover and contented officers. Lieut. General A. M. Sharp, Vice Chief of the Defense Staff of Canada, contends that freewill soldiers are "unquestionably going to be better motivated than men who are just serving time."

PHANTOM FEARS

Civilian reservations about volunteer armed forces also focus on some fears that tend to dissolve upon examination. Some critics have raised the specter of well-paid careerists becoming either mercenaries or a "state within a state." Nixon, for one, dismisses the mercenary argument as nonsense. The U.S. already pays soldiers a salary. Why should a rise in pay—which for an enlisted man might go from the present $2,900 a year to as much as $7,300—turn Americans into mercenaries? Said Nixon: "We're talking about the same kind of citizen armed force America has had ever since it began, excepting only in the period when we have relied on the draft." The Pentagon itself rejects the Wehrmacht-type army, in which men spend all their professional lives in service.

Nixon has also addressed himself to the possibility that a careerist army might become a seedbed for future military coups. That danger is probably inherent in any military force, but as the President-elect points out, a coup would necessarily come from "the top officer ranks, not from the enlisted ranks, and we already have a career-officer corps. It is hard to see how replacing draftees with volunteers would make officers more influential." Nixon might have added that conscript armies have seldom proved any barrier to military coups. Greece's army is made up of conscripts, but in last year's revolution they remained loyal to their officers, not to their King.

Might not the volunteer army become disproportionately black, perhaps a sort of internal Negro Foreign Legion? Labor Leader Gus Tyler is one who holds that view; he says that a volunteer army would be "low-income and, ultimately, overwhelmingly Negro. These victims of our social order 'prefer' the uniform because of socio-economic compulsions—for the three square meals a day, for the relative egalitarianism of the barracks or the foxhole, for the chance to be promoted." Conceivably, Negroes could flock to the volunteer forces for both a respectable reason, upward mobility, and a deplorable one, to form a domestic revolutionary force.

As a matter of practice rather than theory, powerful factors would work in a volunteer army toward keeping the proportion of blacks about where it is in the draft army—11%, or roughly the same as the nation as a whole. Pay rises would attract whites as much as blacks, just as both are drawn into police forces for similar compensation.

The educational magnets, which tend to rule out many Negroes as too poorly schooled and leave many whites in college through deferments, would continue to exert their effect. Black Power militancy would work against Negroes' joining the Army. Ronald V. Dellums, a Marine volunteer 13 years ago and now one of two black councilmen in Berkeley, opposes the whole idea of enlistment as a "way for the black people to get up and out of the ghetto existence. If a black man has to become a paid killer in order to take care of himself and family economically, there must be something very sick about this society." But even if all qualified Negroes were enrolled, the black proportion of the volunteer army could not top 25%. Nixon holds that fear of a black army is fantasy: "It supposes that raising military pay would in some way slow up or stop the flow of white volunteers, even as it stepped up the flow of black volunteers. Most of our volunteers now are white. Better pay and better conditions would obviously make military service more attractive to black and white alike."

One consideration about the volunteer army is that it could eventually become the only orderly way to raise armed forces. The draft, though it will prevail by law at least through 1971, is under growing attack. In the mid-'50s, most military-age men eventually got drafted, and the inequities of exempting the remainder were not flagrant. Now, despite Viet Nam, military draft needs are dropping, partly because in 1966 Secretary of Defense Robert McNamara started a "project 100,000," which slightly lowered mental and physical standards and drew 70,000 unanticipated volunteers into the forces. Meanwhile, the pool of men in the draftable years is rising, increasingly replenished by the baby boom of the late '40s. Armed forces manpower needs have run at 300,000 a year lately, but they will probably drop to 240,000 this year. On the other hand, the number of men aged 19 to 25 has jumped from 8,000,000 in 1958 to 11.5 million now—and will top 13 million by 1974. The unfairness inherent in the task of arbitrarily determining the few who shall serve and the many who shall be exempt will probably overshadow by far the controversies over college deferments and the morality of the Viet Nam war. In the American conscience, the draft-card burners planted a point: that conscription should be re-examined and not necessarily perpetuated. The blending of war protest with draft protest, plus the ever more apparent inequities of Selective Service, led Richard Nixon to move his proposal for a volutneer army to near the top of his priorities.

HEALING TENSIONS

The position from which to start working for a volunteer army is that, to a large extent, the nation already has one—in the sense that two-thirds of its present troops are enlistees. Neither Nixon nor anyone else visualizes a rapid changeover. The draft will doubtless endure until the war in Viet Nam ends, but it could then be phased out gradually. After that, the draft structure can be kept in stand-by readiness, thinks Nixon, "without leaving 20 million young Americans who will come of age during the next decade in constant uncertainty and apprehension."

If Nixon and his executive staff can move ahead with legislation and the new Secretary of Defense prod and cajole his generals and admirals, the new Administration will go far toward its aim. A volunteer army might help ease racial tensions, perhaps by ending the imbalance that has blacks serving in the front lines at almost three times their proportion in the population and certainly by removing the arbitrariness of the draft that puts them there. The move would also eliminate the need to force men to go to war against their consciences, and end such other distortions as paying soldiers far less than they would get if they were civilians, or forcing other young men into early marriages and profitless studies to avoid the draft. Incentive, substituted for compulsion, could cut waste and motivate pride. Not least, a volunteer army would work substantially toward restoring the national unity so sundered by the present inequalities of the draft.

S. 782—INTRODUCTION OF BILL FOR PROTECTION OF CONSTITUTIONAL RIGHTS OF GOVERNMENT EMPLOYEES AND TO PREVENT UNWARRANTED INVASIONS OF THEIR PRIVACY

Mr. ERVIN. Mr. President, I introduce for appropriate reference a bill to protect the civilian employees of the executive branch of the U.S. Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy.

I take this action on behalf of myself and the following 53 Members who have jointed in cosponsorship of this measure: Senators BAYH, FONG, HRUSKA, THURMOND, DODD, BURDICK, TYDINGS, DIRKSEN, SCOTT, COOK, MATHIAS, BIBLE, BROOKE, BYRD of Virginia, CHURCH, COOPER, DOLE, DOMINICK, EAGLETON, FANNIN, GOLDWATER, GRAVEL, HANSEN, HATFIELD, INOUYE, JORDAN of North Carolina, JORDAN of Idaho, MAGNUSON, MCCARTHY, MCGEE, MCGOVERN, MCINTYRE, METCALF, MILLER, MONTOYA, MUNDT, MUSKIE, NELSON, PEARSON, PERCY, PROUTY, PROXMIRE, RANDOLPH, SAXBE, SCHWEIKER, SPARKMAN, SPONG, STEVENS, TALMADGE, TOWER, WILLIAMS of New Jersey, YARBOROUGH, and GURNEY.

This measure has already been approved once by this body. The bill I introduce today is identical with a former bill, S. 1035, which was sponsored by 55 Senators and which the Senate passed on September 13, 1967, by a vote of 79 to 4. By the time absentees recorded their stand on S. 1035, a total of 90 Senators had registered their approval.

Despite the widespread support this proposal has had from citizens throughout the country, from individual Government employees and from every major government employee organization and union, the bill died in the House Subcommittee on Manpower and Civil Service.

Several weeks ago, Americans circled the moon, and we can only wonder at the anomaly of a free society whose wondrous meshing of governmental machinery could produce such a feat but whose Congress could not enact a bill to protect the rights and liberties of its Federal employees.

On reflection, however, it may be that the concerted opposition to the bill mounted by the Federal agencies and departments is only one more example of the effective and smooth cooperation which Government agencies can demonstrate when the occasion demands. As they viewed it, I suppose impending enactment of S. 1035 was such an occasion, for it did threaten their power of arbitrary and unlimited invasion of the privacy of citizens who work for Government or who apply to work for it. It did prohibit Government officials at all levels from violating certain basic rights which employees possess as citizens under a democratic form of government. And it did spell out for all to see in the statute books what rights and what remedies

those 3 million ci... ens had with re-
spect to the policies... methods and tech-
niques specifically p... scribed by the bill.

The purpose and... background of the
measure I am again... troducing is spelled
out in Senate Repor... No. 534 of the 90th
Congress. It is to... rohibit indiscrim-
inate requirements... iat employees and
applicants for Gov... iment employment
disclose their race,... eligion or national
origin; attend G... ernment-sponsored
meetings and lectu... s or participate in
outside activities u... elated to their em-
ployment; report o... heir outside activi-
ties or undertakin... unrelated to their
work; submit to qu... tioning about their
religion, personal r... tionships or sexual
attitudes, through i... erviews, psycholog-
ical tests, or polygr... hs; support politi-
cal candidates, or ... end political meet-
ings.

It makes it illeg... to coerce an em-
ployee to buy bond... or make charitable
contributions; or t... require him to dis-
close his own perso... l assets, liabilities,
or expenditures, or ... ose of any member
of his family, unle... in the case of cer-
tain specified em... oyees, such items
would tend to show... conflict of interest.

It provides a rig... to have a counsel
or other person pre... nt, if the employees
wishes, at an inter... w which may lead
to disciplinary pro... edings.

It accords the r... it to a civil action
in a Federal cou... for violation or
threatened violatio... of the act.

Finally, it establi... es a Board on Em-
ployees' Rights to ... ceive and conduct
hearings on comp... nts of violation of
the act, and to dete... ine and administer
remedies and pena... s.

Some people wi... say, "Let us wait.
There has been a ... nge of administra-
tion." I submit, M... President, that al-
though they have ... new umpire, it is
still the same old ... ll game for Federal
employees. And it ... vill continue to be
until Congress ta... s action to protect
the citizen who ma... be subjected to of-
ficial pressures, coe... ions, and commands
inconsistent with ... tizenship in a free
society.

Some administ... ive changes have
been made by the ... le former Chairman
of the Civil Serv... e Commission, Mr.
Macy. Under Mr. ... ucy, the Commission
last year produced ... ew personnel forms
after deleting so... e privacy-invading
questions previously... asked of applicants;
they codified and ... strengthened their
own guidelines for ... vestigations of per-
sonnel; and they ... ncouraged manage-
ment action and ... ncern with problems
uncovered by the ... bcommittee study.

I ask unanimo... s consent to have
printed in the R... ORD an exchange of
correspondence b... veen Mr. Macy and
me concerning ou... mutual interests in
behalf of the priva... and other rights of
Government empl... ees as citizens.

There being no ... bjection, the corre-
spondence was ord... red to be printed in
the RECORD, as fo... ows:

JANUARY 27, 1969.

Hon. JOHN W. MACY, Jr.,
McLean, Va.

DEAR MR. MACY: ... is is to thank you for
your reply to my ... quiry January 7 con-
cerning letters of ... rimand.

I also want to te... you of my appreciation
for your cooperation ... with the Subcommittee
during our study of the constitutional rights of employees. I have come to admire your strength of purpose and your dedication to good government. I believe you and your colleagues have made a sincere effort to remedy some of the human problems which have been evolving for federal workers with the growth of the Federal Government. You carried burdens for the Chief Executive, for government, and for your party beyond the strengths of any average man.

As you return to private life, I know you do so with the knowledge that you have rendered unique and outstanding service to your country.

With best personal wishes, I am,

Sincerely yours.

SAM J. ERVIN, Jr.,
Chairman.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., January 16, 1969.

Hon. SAM J. ERVIN, Jr.,
Chairman, Subcommittee on Constitutional Rights, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR: In looking over the unfinished business which remains in the final days of my service and the Civil Service Commission, I have given particular attention to your thoughtful letter of January 7 concerning letters of reprimand. I regret that the time remaining is not sufficient to permit an appropriate reply from me prior to January 20. The Commission staff advises me that an analysis of the questions you have raised will necessitate inquiries to the agencies prior to the preparation of a response which will provide you with the significant information you seek.

Since this will be my final communication with you in my role as Commission Chairman I want to take the opportunity to express my sincere appreciation to you for your vigorous interest in the rights of Federal employees. While we have not always been in agreement—or even near it—on how to assure the best protection of employee rights, I believe that our values and our objectives are basically identical. Your advocacy on this issue has prompted action within the Commission and elsewhere in the Federal Government which would not have occurred without it. You have directed the spotlight of Congressional concern on human issues which required executive attention. I only hope that our conscientious response has contributed to the improvement we both seek.

I am certain that additional recognition and protection of the rights of Federal employees will evolve in the months ahead. I am equally certain that as in the past you and your Subcommittee will play an affirmative and significant role in that evolution.

With every best wish for future health and happiness,

Sincerely yours,

JOHN W. MACY, Jr.,
Chairman.

Mr. ERVIN. Mr. President, these changes, however, have not altered the basic legal and administrative structures which can produce the injustices at which this measure is directed. Nor, under the existing system, can orders or suggestions of the Commission reach the acts and policies of agencies which are beyond the scope of civil service supervision. The Senate report describes examples of such practices which continue in effect.

It is clear that moral exhortations, whether pronounced by Congress or by the Civil Service Commission, or even by the President himself, are not sufficient to remedy this particular type of infringement on liberties. These complaints involve freedom of thought, of speech, of private action or inaction: freedoms of free men. These must be matters of law, not subjects for the discretion of whatever government official sits at a desk at any given moment.

The bill is based on complaints which, in some cases, have been coming to Congress for many years, regardless of the party in power.

The bipartisan nature of the support for the bill is illustrated in its sponsorship by 28 Democrats and 26 Republicans, representing 38 States.

The candidates of both major parties, in policy statements during the Presidential campaign, strongly supported new protections for the constitutional rights of Federal employees and guarantees against unwarranted invasions of their personal privacy.

Last October, for instance, former Vice President Humphrey wisely recognized the need for such protections and promised legislation based on the findings of the Constitutional Rights Subcommittee and other congressional committees.

Platforms of both major parties acknowledged the problem. In the platform adopted by their convention in Miami Beach last August, the Republican Party stated:

> The increasing government intrusion into the privacy of its employees and of citizens in general is intolerable. All such snooping, meddling and pressure by the federal government on its employees and other citizens will be stopped and such employees, whether or not union members, will be provided a prompt and fair method of settling their grievances.

This bill will help Members of Congress and the new administration to exchange their votes for their promises.

I am particularly encouraged by the recent endorsement and sponsorship of the bill by the new chairman of the Senate Post Office and Civil Service Committee, the senior Senator from Wyoming.

Enactment of this measure will signify that the spiritual and intellectual freedom of the individual, whatever his employment, is the value our society cherishes above the goals of any momentary Government program. Its passage will also put Congress on record that it means to take the lead in meeting the threat to individual privacy caused by the computer age. It will show that Congress means that the individual should take precedence over the machine: that neither the computer nor the manila file should be fed subjective, irrelevant judgments based on information the citizen was coerced to reveal about his personal life, his religious beliefs, his sexual attitudes, his participation or nonparticipation in community life, or his personal finances. It reflects a principle as old as our country, that a man should be judged by his ability and his performance; not by the extent to which government can control his private thoughts and beliefs.

I have received letters from people in every State asking why the scope of this bill is not extended to cover everyone, and not just Federal employees and applicants. Their questions are justified. The simple principles of fair play and due process on which it is based should

guide the actions of all governments in their dealings with citizens.

Employers in State and local government and in private industry have already demonstrated considerable interest in adopting provisions of the bill into their own practices. State legislative committees have looked to it for guidance, and there is no doubt that congressional action to protect against unwarranted privacy invasion, with specific remedies, will encourage extensive local reforms to protect all citizens.

If this measure is enacted, it will at least mark a beginning. The Constitution of the United States calls for more; it demands no less.

Mr. President, when this bill was introduced before, I had a conference with the distinguished former chairman of the Committee on Post Office and Civil Service, Senator Monroney. Pursuant to our conversation, he agreed with me that the bill could be appropriately referred to his committee or the Committee on the Judiciary, and the bill was referred by unanimous consent to the Committee on the Judiciary which conducted hearings on the bill. I have consulted with the present distinguished chairman of the Committee on Post Office and Civil Service, the able Senator from Wyoming (Mr. McGEE). He has agreed with me that a similar course should be followed at this time.

Therefore, I ask unanimous consent, pursuant to the agreement between Mr. McGEE and me, that the bill be referred to the Committee on the Judiciary; and that the bill be printed in the RECORD.

The VICE PRESIDENT. Without objection the bill will be received, by unanimous consent referred to the Committee on the Judiciary; and, without objection, the bill will be printed in the RECORD.

The bill (S. 782) to protect the civilian employees of the executive branch of the U.S. Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy, introduced by Mr. ERVIN (for himself and 53 other Senators), was received, read twice by its title, referred to the Committee on the Judiciary, by unanimous consent, and ordered to be printed in the RECORD, as follows:

S. 782

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. It shall be unlawful for any officer of any executive department or any executive agency of the United States Government, or for any person acting or purporting to act under his authority, to do any of the following things:

(a) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency, or any person seeking employment in the executive branch of the United States Government, to disclose his race, religion, or national origin, or the race, religion, or national origin of any of his forebears: *Provided, however,* That nothing contained in this subsection shall be construed to prohibit inquiry concerning the citizenship of any such employee or person if his citizenship is a statutory condition of his obtaining or retaining his employment: *Provided further,* That nothing contained in this subsection shall be construed to prohibit inquiry concerning the national origin of any such employee when such inquiry is deemed necessary or advisable to determine suitability for assignment to activities or undertakings related to the national security within the United States or to activities or undertakings of any nature outside the United States.

(b) To state or intimate, or to attempt to state or intimate, to any civilian employee of the United States serving in the department or agency that any notice will be taken of his attendance or lack of attendance at any assemblage, discussion, or lecture held or called by any officer of the executive branch of the United States Government, or by any person acting or purporting to act under his authority, or by any outside parties or organizations to advise, instruct, or indoctrinate any civilian employee of the United States serving in the department or agency in respect to any matter or subject other than the performance of official duties to which he is or may be assigned in the department or agency, or the development of skills, knowledge, or abilities which qualify him for the performance of such duties: *Provided, however,* That nothing contained in this subsection shall be construed to prohibit taking notice of the participation of a civilian employee in the activities of any professional group or association.

(c) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency to participate in any way in any activities or undertakings unless such activities or undertakings are related to the performance of official duties to which he is or may be assigned in the department or agency, or to the development of skills, knowledge, or abilities which qualify him for the performance of such duties.

(d) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency to make any report concerning any of his activities or undertakings unless such activities or undertakings are related to the performance of official duties to which he is or may be assigned in the department or agency, or to the development of skills, knowledge, or abilities which qualify him for the performance of such duties, or unless there is reason to believe that the civilian employee is engaged in outside activities or employment in conflict with his official duties.

(e) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency, or any person applying for employment as a civilian employee in the executive branch of the United States Government, to submit to any interrogation or examination or to take any psychological test which is designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters: *Provided, however,* That nothing contained in this subsection shall be construed to prevent a physician from eliciting such information or authorizing such tests in the diagnosis or treatment of any civilian employee or applicant where such physician deems such information necessary to enable him to determine whether or not such individual is suffering from mental illness: *Provided further, however,* That this determination shall be made in individual cases and not pursuant to general practice or regulation governing the examination of employees or applicants according to grade, agency, or duties: *Provided further, however,* That nothing contained in this subsection shall be construed to prohibit an officer of the department or agency from advising any civilian employee or applicant of a specific charge of sexual misconduct made against that person, and affording him an opportunity to refute the charge.

(f) To require or request, or attempt to require or request, any civilian employee of the United States serving in the department or agency, or any person applying for employment as a civilian employee in the executive branch of the United States Government, to take any polygraph test designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters.

(g) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency to support by personal endeavor or contribution of money or any other thing of value the nomination or the election of any person or group of persons to public office in the Government of the United States or of any State, district, Commonwealth, territory, or possession of the United States, or to attend any meeting held to promote or support the activities or undertakings of any political party of the United States or of any State, district, Commonwealth, territory, or possession of the United States.

(h) To coerce or attempt to coerce any civilian employee of the United States serving in the department or agency to invest his earnings in bonds or other obligations or securities issued by the United States or any of its departments or agencies, or to make donations to any institution or cause of any kind: *Provided, however,* That nothing contained in this subsection shall be construed to prohibit any officer of any executive department or any person acting or purporting to act under his authority, from calling meetings and taking any action appropriate to afford any civilian employee of the United States the opportunity voluntarily to invest his earnings in bonds or other obligations or securities issued by the United States or any of its departments or agencies, or voluntarily to make donations to any institution or cause.

(i) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the Department or agency to disclose any items of his property, income, or other assets, source of income, or liabilities, or his personal or domestic expenditures or those of any member of his family or household: *Provided, however,* That this subsection shall not apply to any civilian employee who has authority to make any final determination with respect to the tax or other liability of any person, corporation, or other legal entity to the United States, or claims which require expenditure of moneys of the United States: *Provided further, however,* That nothing contained in this subsection shall prohibit the Department of the Treasury or any other executive department or agency of the United States Government from requiring any civilian employee of the United States to make such reports as may be necessary or appropriate for the determination of his liability for taxes, tariffs, custom duties, or other obligations imposed by law.

(j) To require or request, or to attempt to require or request, any civilian employee of the United States embraced within the terms of the proviso in subsection (i) to disclose any items of his property, income, or other assets, source of income, or liabilities, or his personal or domestic expenditures or those of any member of his family or household other than specific items tending to indicate a conflict of interest in respect to the performance of any of the official duties to which he is or may be assigned.

(k) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency, who is under investigation

for misconduct, to sub: it to interrogation which could lead to dis: linary action without the presence of co: sel or other person of his choice, if he so r: uests.

(1) To discharge, dis: line, demote, deny promotion to, relocate, r: ssign, or otherwise discriminate in regard t: any term or condition of employment: , any civilian employee of the United: ites serving in the department or agency: or to threaten to commit any of such a: , by reason of the refusal or failure of s: employee to submit to or comply with: y requirement, request, or action made: lawful by this Act, or by reason of the ex: ise by such civilian employee of any right: nted or secured by this Act.

SEC. 2. It shall be u: wful for any officer of the United States C: l Service Commission, or for any person: cting or purporting to act under his autho: y, to do any of the following things:

(a) To require or r: uest, or to attempt to require or request, : y executive department or any executive: gency of the United States Government, c: any officer or employee serving in such: partment or agency, to violate any of the: visions of section 1 of this Act.

(b) To require or re: est, or to attempt to require or request, a: person seeking to establish civil service: tus or eligibility for employment in the ex: utive branch of the United States Goverr: ent, or any person applying for employm: t in the executive branch of the United: ites Government, or any civilian employee: f the United States serving in any depart: nt or agency of the United States Governm: nt, to submit to any interrogation or exam: ation or to take any psychological test whi: is designed to elicit from him information: concerning his personal relationship wit: ny person connected with him by blood or: arriage, or concerning his religious belie: or practices, or concerning his attitude c: onduct with respect to sexual matters: *Pr: ided, however,* That nothing contained in: his subsection shall be construed to prev: t a physician from eliciting such inform: tion or authorizing such tests in the diag: osis or treatment of any civilian employe: or applicant where such physician deems: ich information necessary to enable him t: letermine whether or not such individual i: uffering from mental illness: *Provided furth: r, however,* That this determination shall: made in individual cases and not pursua: to general practice or regulation governing: examination of employees or applican: according to grade, agency, or duties: *Pro: ied further, however,* That nothing contain: d in this subsection shall be construed t: rohibit an officer of the Civil Service Co: ission from advising any civilian employ: or applicant of a specific charge of se: al misconduct made against that person, : d affording him an opportunity to refute: e charge.

(c) To require or r: uest, or to attempt to require or request, : y person seeking to establish civil servi: status or eligibility for employment in t: executive branch of the United States G: rnment, or any person applying for em: yment in the executive branch of the Un: d States Government, or any civilian em: oyee of the United States serving in an: epartment or agency of the United State: Government, to take any polygraph test: signed to elicit from him information con: ning his personal relationship with any: erson connected with him by blood or: riage, or concerning his religious beliefs: practices, or concerning his attitude or: nduct with respect to sexual matters.

SEC. 3. It shall be: nlawful for any commissioned officer, as: efined in section 101 of title 10, United St: es Code, or any member of the Armed F: es acting or purporting to act under his: thority, to require or request, or to attem: to require or request, any civilian employee of the executive branch of the United States Government under his authority or subject to his supervision to perform any of the acts or submit to any of the requirements made unlawful by section 1 of this Act.

SEC. 4. Whenever any officer of any executive department or any executive agency of the United States Government, or any person acting or purporting to act under his authority, or any commissioned officer as defined in section 101 of title 10, United States Code, or any member of the Armed Forces acting or purporting to act under his authority, violates or threatens to violate any of the provisions of section 1, 2, or 3 of this Act, any civilian employee of the United States serving in any department or agency of the United States Government, or any person applying for employment in the executive branch of the United States Government, or any person seeking to establish civil service status or eligibility for employment in the executive branch of the United States Government, affected or aggrieved by the violation or threatened violation, may bring a civil action in his own behalf or in behalf of himself and others similarly situated, against the offending officer or person in the United States district court for the district in which the violation occurs or is threatened, or the district in which the offending officer or person is found, or in the United States District Court for the District of Columbia, to prevent the threatened violation or to obtain redress against the consequences of the violation. The Attorney General shall defend all officers or persons sued under this section who acted pursuant to an order, regulation, or directive, or who, in his opinion, did not willfully violate the provisions of this Act. Such United States district court shall have jurisdiction to try and determine such civil action irrespective of the actuality or amount of pecuniary injury done or threatened, and without regard to whether the aggrieved party shall have exhausted any administrative remedies thta may be provided by law, and to issue such restraining order, interlocutory injunction, permanent injunction, or mandatory injunction, or enter such other judgment or decree as may be necessary or appropriate to prevent the threatened violation, or to afford the plaintiff and others similarly situated complete relief against the consequences of the violation. With the written consent of any person affected or aggrieved by a violation or threatened violation of section 1, 2, or 3 of this Act, any employee organization may bring such action on behalf of such person, or may intervene in such action. For the purposes of this section, employee organizations shall be construed to include any brotherhood, council, federation, organization, union, or professional association made up in whole or in part of civilian employees of the United States and which has as one of its purposes dealing with departments, agencies, commissions, and independent agencies of the United States concerning the conditions and terms of employment of such employees.

SEC. 5. (a) There is hereby established a Board on Employees' Rights (hereinafter referred to as the "Board"). The Board shall be composed of three members, appointed by the President, by and with the advice and consent of the Senate. The President shall designate one member as chairman. No more than two members of the Board may be of the same political party. No member of the Board shall be an officer or employee of the United States Government.

(b) The term of office of each member of the Board shall be five years, except that (1) of those members first appointed, one shall serve for five years, one for three years, and one for one year, respectively, from the date of enactment of this Act, and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(c) Members of the Board shall be compensated at the rate of $75 a day for each day spent in the work of the Board, and shall be paid actual travel expenses and per diem in lieu of subsistence expenses when away from their usual places of residence, as authorized by section 5703 of title 5, United States Code.

(d) Two members shall constitute a quorum for the transaction of business.

(e) The Board may appoint and fix the compensation of such officers, attorneys, and employees, and make such expenditures, as may be necessary to carry out its functions.

(f) The Board shall make such rules and regulations as shall be necessary and proper to carry out its functions.

(g) The Board shall have the authority and duty to receive and investigate written complaints from or on behalf of any person claiming to be affected or aggrieved by any violation or threatened violation of this Act and to conduct a hearing on each such complaint. Within ten days after the receipt of any such complaint, the Board shall furnish notice of the time, place, and nature of the hearing thereon to all interested parties. The Board shall render its final decision with respect to any complaint within thirty days after the conclusion of its hearing thereon.

(h) Officers or representatives of any Federal employee organization in any degree concerned with employment of the category in which any alleged violation of this Act occurred or is threatened shall be given an opportunity to participate in each hearing conducted under this section, through submission of written data, views, or arguments, and in the discretion of the Board, with opportunity for oral presentation. Government employees called upon by any party or by any Federal employee organization to participate in any phase of any administrative or judicial proceeding under this section shall be free to do so without incurring travel cost or suffering loss in leave or pay; and all such employees shall be free from restraint, coercion, interference, intimidation, or reprisal in or because of their participation. Any periods of time spent by Government employees during such participation shall be held and considered to be Federal employment for all purposes.

(i) Insofar as consistent with the purposes of this section, the provisions of subchapter II of chapter 5 of title 5, United States Code, relating to the furnishing of notice and manner of conducting agency hearings, shall be applicable to hearings conducted by the Board under this section.

(j) If the Board shall determine after hearing that a violation of this Act has not occurred or is not threatened, the Board shall state its determination and notify all interested parties of such determination. Each such determination shall constitute a final decision of the Board for purposes of judicial review.

(k) If the Board shall determine that any violation of this Act has been committed or threatened by any civilian officer or employee of the United States, the Board shall immediately (1) issue and cause to be served on such officer or employee an order requiring such officer or employee to cease and desist from the unlawful act or practice which constitutes a violation, (2) endeavor to eliminate any such unlawful act or practice by informal methods of conference, conciliation, and persuasion; and (3) may—

(A) (i) in the case of the first offense by any civilian officer or employee of the United States, other than any officer appointed by the President, by and with the advice and consent of the Senate, issue an official repri-

mand against such officer or employee or order the suspension without pay of such officer or employee from the position or office held by him for a period of not to exceed fifteen days, and (ii) in the case of a second or subsequent offense by any such officer or employee, order the suspension without pay of such officer or employee from the position or office held by him for a period of not to exceed thirty days or order the removal of such officer or employee from such position or office; and

(B) in the case of any offense by any officer appointed by the President by and with the advice and consent of the Senate, transmit a report concerning such violation to the President and the Congress.

(l) If the Board shall determine that any violation of this Act has been committed or threatened by any officer of any of the Armed Forces of the United States, or any person purporting to act under authority conferred by such officer, the Board shall (1) submit a report thereon to the President, the Congress, and the Secretary of the military department concerned, (2) endeavor to eliminate any unlawful act or practice which constitutes such a violation by informal methods of conference, conciliation, and persuasion, and (3) refer its determination and the record in the case to any person authorized to convene general courts martial under section 822 (article 22) of title 10, United States Code. Thereupon such person shall take immediate steps to dispose of the matter under chapter 47 of title 10, United States Code (Uniform Code of Military Justice).

(m) Any party aggrieved by any final determination or order of the Board may institute, in the district court of the United States for the judicial district wherein the violation or threatened violation of this Act, occurred, or in the United States District Court for the District of Columbia, a civil action for the revew of such determination or order. In any such action, the court shall have jurisdiction to (1) affirm, modify, or set aside any determination or order made by the Board which is under review, or (2) require the Board to make any determination or order which it is authorized to make under subsection (k), but which it has refused to make. The reviewing court shall set aside any finding, conclusion, determination, or order of the Board as to which complaint is made which is unsupported by substantial evidence on the record considered as a whole.

(n) The Board shall submit, not later than March 31 of each year, to the Senate and House of Representatives, respectively, a report on its activities under this section during the immediately preceding calendar year, including a statement concerning the nature of all complaints filed with it, its determinations and orders resulting from hearings thereon, and the names of all officers or employees of the United States with respect to whom any penalties have been imposed under this section.

(o) There are authorized to be appropriated sums necessary, not in excess of $100,000, to carry out the provisions of this section.

SEC. 6. Nothing contained in this Act shall be construed to prohibit an officer of the Central Intelligence Agency or of the National Security Agency or of the Federal Bureau of Investigation from requesting any civilian employee or applicant to take a polygraph test, or to take a psychological test, designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters, or to provide a personal financial statement, if the Director of the Central Intelligence Agency or his designee or the Director of the National Security Agency or his designee or the Director of the Federal Bureau of Investigation or his designee makes a personal finding with regard to each individual to be so tested or examined that such test or information is required to protect the national security.

SEC. 7. Nothing contained in sections 4 and 5 shall be construed to prevent establishment of department and agency grievance procedures to enforce this Act, but the existence of such procedures shall not preclude any applicant or employee from pursuing the remedies established by this Act or any other remedies provided by law: *Provided, however,* That if under the procedures established, the employee or applicant has obtained complete protection against threatened violations or complete redress for violations, such action may be pleaded in bar in the United States District Court or in proceedings before the Board on Employee Rights: *Provided further, however,* That if an employee elects to seek a remedy under either section 4 or section 5, he waives his right to proceed by an independent action under the remaining section.

SEC. 8. If any provision of this Act or the application of any provision to any person or circumstance shall be held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected.

S. 809—INTRODUCTION OF BILL TO ESTABLISH A FEDERAL LEADERSHIP PROGRAM TO PROMOTE YOUTH CAMP SAFETY

Mr. RIBICOFF. Mr. President, I introduce, for appropriate reference, a bill to establish a Federal leadership program to promote youth camp safety.

Each year more than 7 million children go off to residential, day or travel camps. These campers are mainly schoolchildren, and the vast majority attend camps during the summer vacation months. But while a parent finds little difficulty in ascertaining the relative safety of a child at school, millions of parents are forced to send their offspring to camps with little or no knowledge of whether the place meets basic minimum safety standards. And too often they do not.

Camping is a rapidly growing industry. The best estimates place the number of camps in the United States at between 10,000 and 12,000. Resident camps alone have tripled in the last 10 years. There are camps established in every State in the Union.

In many cases camps virtually take the place of parents for several weeks in the year. Yet in 19 States there are no regulations governing camping at all, and, in many of the remaining States only isolated aspects of camping are covered by law or regulation.

For instance, 40 States have no training requirements for counselors who supervise aquatic activities. Forty-six States have no regulations regarding the condition of vehicles used for transportation or the qualifications of drivers. The same number of States have no regulations restricting the age of counselors. Twenty-nine States fail to require annual camp inspections.

In the absence of State regulations there are a number of excellent camping organizations which have established standards for camping. The American Camping Association, with 3,400 member camps, the scouting organizations, the Association of Private Camps, and church oriented groups have all made a substantial contribution to better camping. But a great many camps in America do not belong to these organizations, and it is well understood that the standards set by private organizations lack any real enforcement provisions behind them One out of every eight camps visited by representatives of the American Camping Association in 1967 failed to meet ACA standards. And it is generally recognized these are some of the best camps in the Nation.

The failure to establish adequate standards for many of our camps has had tragic consequences. In my own review of this situation, I have heard enough vertifiable horror stories to persuade me to seek better protection for our youngsters.

The only real camp safety survey took place 40 years ago when a group of distinguished youth leaders and camping enthusiasts met in New York City to discuss camping in general. It was the consensus of this group that the time had come to establish minimum standards for camp health and safety. The group commissioned a nationwide camp safety study which remains today the only full study of the situation. The report concluded that 65 percent of all accidents at camp could have been prevented by better supervision or higher standards of camp maintenance and administration. Only a quarter of the accidents were attributable to the camper's negligence, and half of these could have been prevented with more adequate supervision. A high percentage of the injuries covered by this report were due to faulty structures, dangerous pathways, and the very location of the camp itself. Despite this report, however, the call for action issued in 1929 has never been answered.

In 1966, a report issued by the Division of Accident Prevention of the Public Health Service pointed to the injury and death hazards involved in recreational camping.

Mr. President, the purpose of this youth camp safety bill is to provide Federal leadership in the area of camping safety. It seems to me to be only reasonable that our society provide parents with a simple way of judging whether a camp meets basic safety standards.

This bill would instruct the Secretary of Health, Education, and Welfare, in consultation with camping and safety experts, to establish camp safety standards. After the publication of these standards, each State would be encouraged to establish a program to insure compliance. The bill provides for incentive grants to the States to pay up to half the cost of administering the inspection and compliance program. Camps which met the Federal standards would be urged to display this fact to assist parents in their choice.

The bill would establish an Advisory Council on Youth Camp Safety to consult with the Secretary on the promulgation of safety standards. Members of the Council would come from all areas of the camping industry.

Before establishing safety standards, the bill provides that the Secretary shall survey existing safety standards pub-

lished by State and rivate organizations and the effectiven of these standards.

Mr. President, I first became aware of the problems of amp safety through the efforts of Mr Mitch Kurman. Mr. Kurman, from W port, Conn., lost a son several years a in a tragic canoeing accident in Maine since that time Mr. Kurman has becon a crusader, in the best sense of that w rd, for greater camp safety. This bill is a great extent the result of his unceas g efforts.

There are man excellent and safe camps which oper every year. Camping at its best ca provide unmatched opportunities for creation and close contact with our tural environment. It is a memorable ape for many of the underprivileged ch iren trapped in the city.

This bill would ot affect the finest camps. The bill is med at fly-by-night operations and th e camps which are unaffiliated and ur credited by responsible camping orga zations.

I have no desire take the adventure out of camping, bu I see no reason why the benefits of cam ing cannot be rendered in a safe and healthy atmosphere. Many camps alrea measure up to the highest safety stan ards. Others will be given the incentiv to improve. Those that fail to provid a safe environment do not belong in bu ness.

During the yea that I have sponsored this legislatio it has gained widespread public sup ort. Additionally, I have had the assis nce and backing of most of the majo camping organizations. It is signific t that those people closest to the cam ng industry believe this bill to be nece ary.

This legislation ovides an opportunity to enhance th constructive growth of the camping bu ness while protecting the welfare of illions of children.

I am very please o say that Senators BAYH, CASE, DODD, OUYE, JAVITS, MAGNUSON, MCINTYRE MONDALE, MUSKIE, PELL, and TYDING have joined me in sponsoring this le slation, and I ask unanimous conse that the bill be printed at this poi in the RECORD.

The VICE PRES DENT. The bill will be received and ap opriately referred; and, without objec on, the bill will be printed in the Rec D.

The bill (S. 809 to provide Federal leadership and gra s to the States for developing and imp menting State programs for youth ca p safety standards, introduced by Mr. BICOFF (for himself and other Senator was received, read twice by its title, erred to the Committee on Labor an Public Welfare, and ordered to be prin l in the RECORD, as follows:

S 09

Be it enacted by e Senate and House of Representatives o the United States of America in Congres. assembled, That this Act may be cited as t "Youth Camp Safety Act".

STATEMEN F PURPOSE

SEC. 2. It is the rpose of this Act to protect and safeguar the health and well-being of the youth o the Nation attending day camps, resident c ps, and travel camps, by providing for es blishment of Federal standards for safe op ation of youth camps, and to provide Feder assistance and leadership to the States developing programs for implementing safety standards for youth camps, thereby providing assurance to parents and interested citizens that youth camps meet minimum safety standards.

DEFINITIONS

SEC. 3. As used in this Act—

(a) The term "youth camp" means:

(1) any parcel or parcels of land having the general characteristics and features of a camp as the term is generally understood, used wholly or in part for recreational or educational purposes and accommodating for profit or under philanthropic or charitable auspices five or more children under eighteen years of age, living apart from their relatives, parents, or legal guardians for a period of, or portions of, five days or more, and includes a site that is operated as a day camp or as a resident camp; and

(2) any travel camp which for profit or under philanthropic or charitable auspices, sponsors or conducts group tours within the United States, or foreign group tours originating or terminating within the United States, for educational or recreational purposes, accommodating within the group five or more children under eighteen years of age living apart from their relatives, parents, or legal guardians for a period of five days or more.

(b) The term "person" means any individual, partnership, corporation, association, or other form of business enterprises.

(c) The term "safety standards" means criteria directed toward safe operation of youth camps, in such areas as—but not limited to—personnel qualifications for director and staff; ratio of staff to campers; sanitation and public health; personal health, first aid, and medical services; food handling, mass feeding, and cleanliness; water supply and waste disposal; water safety including use of lakes and rivers, swimming and boating equipment and practices; vehicle condition and operation; building and site design; equipment; and condition and density of use.

(d) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(e) The term "State" includes each of the several States and the District of Columbia.

GRANTS TO STATES FOR YOUTH CAMP SAFETY STANDARDS

SEC. 4. From sums appropriated pursuant to section 11 of this Act, but not to exceed $2,500,000 of such appropriation for any fiscal year, the Secretary is authorized to make grants to States which have State plans approved by him under section 6 to pay up to 50 per centum of the cost of developing and administering State programs for youth camp safety standards.

SEC. 5. In developing Federal standards for youth camps, the Secretary shall—

(a) undertake a study of existing State and local regulations and standards, and standards developed by private organizations, applicable to youth camp safety, including the enforcement of such State, local, and private regulations and standards;

(b) establish and publish youth camp safety standards within one year after enactment of the Act, after consultation with State officials and with representatives of appropriate private and public organizations after opportunity for hearings and notification published in the Federal Register; and

(c) authorize and encourage camps certified by the States as complying with the published Federal youth camp standards to advertise their compliance with minimum safety standards.

STATE PLANS

SEC. 6. (a) Any State desiring to participate in the grant program under this Act shall designate or create an appropriate State agency for the purpose of this section, and submit, through such State agency a State plan which shall—

(1) set forth a program for State supervised annual inspection of, and certification of compliance with, minimum safety standards developed under the provisions of sections 5 and 9(a) of this Act, at youth camps located in such State;

(2) provide assurances that the State will accept and apply such minimum youth camp safety standards as the Secretary shall by regulations prescribe;

(3) provide for the administration of such plan by such State agency;

(4) provide for an advisory committee, to advise the State agency on the general policy involved in inspection and certification procedures under the State plan, which committee shall include among its members representatives of other State agencies concerned with camping or programs related thereto and persons representative of professional or civic or other public or nonprofit private agencies, organizations, or groups concerned with organized camping;

(5) provide that such State agency will make such reports in such form and containing such information as the Secretary may reasonably require;

(6) provide assurance that the State will pay from non-Federal sources the remaining cost of such program; and

(7) provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting of funds received under this Act.

(b) Any State desiring to enable youth camps in the State to advertise compliance with Federal youth camp standards, but which does not wish to participate in the grant programs under this Act, shall designate or create an appropriate State agency for the purpose of this section, and submit, through such State agency a State plan which shall accomplish the steps specified in (a) (1) through (3) of this section, and which provides for availability of information so that the Secretary may be assured of compliance with the standards.

(c) the Secretary shall not finally disapprove any State plan submitted under this Act or any modification thereof, without first affording such State agency reasonable notice and opportunity for a hearing.

DETERMINATION OF FEDERAL SHARE; PAYMENTS

SEC. 7. (a) The Secretary shall determine the amount of the Federal share of the cost of programs approved by him under section 6 based upon the funds appropriated therefor pursuant to section 10 for that fiscal year and upon the number of participating States; except that no State may receive a grant under this Act for any fiscal year in excess of $50,000.

(b) Payments to a State under this Act may be made in installments and in advance or by way of reimbursement with necessary adjustments on account of overpayments or underpayments.

OPERATION OF STATE PLANS; HEARINGS AND JUDICIAL REVIEW

SEC. 8. (a) Whenever the Secretary after reasonable notice and opportunity for hearing to the State agency administering a State plan approved under this Act, finds that—

(1) the State plan has been so changed that it no longer complies with the provisions of section 6, or

(2) in the administration of the plan there is a failure to comply substantially with any such provision,

the Secretary shall notify such State agency that no further payments will be made to the State under this Act (or in his discretion, that further payments to the State will be limited to programs or portions of the State plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments may be made to such State under this Act (or payment shall be limited to programs or portions of the State plan not affected by such failure).